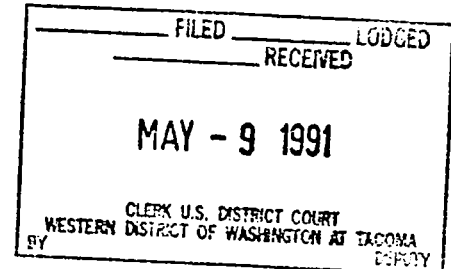


TCFSF 8.6 VI

HONORABLE JACK E. TANNER



IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,
on behalf of the UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
and THE STATE OF WASHINGTON,
DEPARTMENT OF ECOLOGY, et.al.

Plaintiffs,

v.

CITY OF TACOMA,

Defendant.

CIVIL ACTION
NO. C89-583T

GOVERNMENT PLAINTIFFS'
MOTION TO ENTER
CONSENT DECREE WITH
MODIFICATIONS

NOTE ON MOTION
CALENDAR: May 24, 1991

The United States of America and the State of Washington
Department of Ecology (Ecology), plaintiffs (hereafter
Government Plaintiffs), file this Motion to Enter the Consent
Decree between the parties previously lodged with this Court,
with modifications specified herein.

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GOV. PLAINTIFFS' MOTION
TO ENTER CONSENT DECREE - 1

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1 1. On March 25, 1991, the Government Plaintiffs and
2 defendant, the City of Tacoma (City), lodged with the Court a
3 proposed Consent Decree in settlement of the allegations in
4 the Government Plaintiffs' complaint.

5 2. Pursuant to Section 122 of the Comprehensive
6 Environmental Response, Compensation and Liability Act, as
7 amended (CERCLA), 42 U.S.C. § 9622, and the regulations of the
8 Department of Justice, 28 C.F.R. 50.7, on March 28, 1991,
9 notice of lodging of the proposed Consent Decree was published
10 in the Federal Register to afford the public an opportunity to
11 comment on the decree for 30 days.

12 3. The Government Plaintiffs received written comments
13 on the proposed Consent Decree from five commentors and
14 received oral comments at a hearing held on April 15, 1991.
15 The Government Plaintiffs have considered these comments and
16 consent to the entry of the Consent Decree lodged with the
17 Court, as modified. The Government Plaintiffs have responded
18 to these comments in the attached Responsiveness Memorandum.

19 4. In response to the public comments, the Government
20 Plaintiffs identified certain modifications which need to be
21 made to the Consent Decree and the Scope of Work (Appendix II
22 to the Consent Decree). Substitute pages with these changes
23 are attached. The modification to the Consent Decree is as
24 follows:

25
26 GOV. PLAINTIFFS' MOTION
 TO ENTER CONSENT DECREE - 2

1 At Section VI, paragraph 28B, line 7, the value for fresh
2 water discharge for 1,1 dichloroethane is changed from
3 "20.0" to "5.0".

4 The modifications to the Scope of Work are as follows:

5 In Table 3, Groundwater Performance Criteria, the value
6 for 1,1 dichloroethane is changed from "20.0" to "5.0".

7 Also in Table 3, Groundwater Performance Criteria,
8 footnotes should be added after the values for 1,1
9 dichloroethane and vinyl chloride. Both footnotes,
10 numbered 2 and 3 read as follows:

11 The cleanup level established under WAC 173-340-720
12 (Method B) is below the practical quantitation limit
13 (PQL) for these constituents. The performance level
14 selected in this table represent the PQL consistent with
15 WAC 173-340-707(2). The PQL will be evaluated during
16 periodic reviews conducted by the Government Plaintiffs
17 pursuant to Section VIII of this Decree and WAC 173-340-
18 707(4) and 173-340-420.

19 In Table 4, Surface Water Discharge Criteria, the value
20 for freshwater discharge for 1,1 dichloroethane is
21 changed from "20.0" to "5.0".

22 5. The Index to the United States Environmental
23 Protection Agency Administrative Record of the Tacoma Landfill
24 site is attached. The Administrative Record is voluminous; it
25 contains a large number of documents and thousands of pages.
26 Should this Court determine to review part or all of the
Administrative Record, it is available for the Court's review.

1 6. In accordance with Paragraph 62 of the lodged
2 Consent Decree, the Memorandum of Agreement executed on
3 September 15, 1989 and previously filed with the Court, will
4 remain in effect for the resolution of any dispute arising
5 between the Government Plaintiffs.

6 THEREFORE, Government Plaintiffs move this Court to sign
7 the attached Order Entering the Consent Decree with modifica-
8 tions, and to sign and enter the proposed Consent Decree, as
9 modified, as a final judgment of the Court.

10 Respectfully submitted this 9th day of May, 1991.

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14 U.S. Department of Justice

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26 GOV. PLAINTIFFS' MOTION
 TO ENTER CONSENT DECREE - 4

1 A. Groundwater Cleanup Levels

2 Drinking water standards, or established and
3 approved health based criteria.

4 B. Performance Levels for Treatment System
5 Discharge To Surface Water (µg/L) *

Constituent	Fresh Water	Marine Water
Benzene	5.0	700.0
Chloroethane	20.0	1130.0
1,1-dichloroethane	5.0	1130.0
1,2-dichloroethane	5.0	1130.0
Ethyl benzene	320.0	4.3 **
Methylene Chloride	5.0	6400.0
Toluene	175.0	5000.0
1,1,1-trichloroethane	200.0	312.0
Vinyl chloride	2.0	2.0 **
Xylenes	10.0	10.0 **

11 * This table shall be supplemented to include the entire
12 list of indicator parameters selected under section 3.1.2.2 of
13 the SOW.

14 ** Value set at fresh water criteria unless other discharge
15 limits can be established from other guidance documents or
16 technical research, as approved by the Government Plaintiffs.

17 Treatment system effluent must also meet water quality
18 standards, as set forth in WAC 173-201.

19 C. Performance Levels for Discharge to a
20 Sanitary Sewer

21 The Settling Defendant shall meet the discharge
22 limits established pursuant to WAC 173-216 and approved by the
23 Government Plaintiffs, and must meet pretreatment regulations,
24 City of Tacoma Code, Chapter 12.08, as revised.

25 29. No modification by the Settling Defendant shall
26 be made in the performance of the Work which varies from the

TABLE 3
GROUNDWATER PERFORMANCE CRITERIA ¹

<u>Contaminent</u>	<u>Performance Criteria (ug/l)</u>
Benzene	5.0
Chloroethane	20.0
1,1-dichloroethane	5.0 ²
1,2-dichloroethane	5.0
Ethylbenzene	320.0
Methylene Chloride	5.0
Toluene	175.0
1,1,1-trichloroethane	200.0
Vinyl Chloride	2.0 ³
Xylenes	10.0

¹ This table shall be developed and completed for the entire list of indicator parameters selected under Section 3.1.2.2 of this SOW.

² The cleanup level established under WAC 173-340-720 (Method B) is below the practical quantitation limit (PQL) for these constituents. The performance level selected in this table represent the PQL consistent with WAC 173-340-707(2). The PQL will be evaluated during periodic reviews conducted by the Government Plaintiffs pursuant to Section VIII of this Decree and WAC 173-340-707(4) and 173-340-420.

³ The cleanup level established under WAC 173-340-720 (Method B) is below the practical quantitation limit (PQL) for these constituents. The performance level selected in this table represent the PQL consistent with WAC 173-340-707(2). The PQL will be evaluated during periodic reviews conducted by the Government Plaintiffs pursuant to Section VII of this Decree and WAC 173-340-707(4) and 173-340-420.

TABLE 4

SURFACE WATER DISCHARGE CRITERIA*

Contaminant Concentration Appropriate
to the Discharge Location (ug/l)

<u>Contaminant</u>	<u>Fresh Water</u>	<u>Marine Water</u>
Benzene	5.0	700.0
Chloroethane	20.0	1130.***
1,1-dichloroethane	5.0	1130.***
1,2-dichloroethane	5.0	1130.0
Ethyl Benzene	320.0	4.3**
Methylene Chloride	5.0	6400.
Toluene	175.0	5000.0
1,1,1 trichloroethane	200.0	312.0
Vinyl Chloride	2.0	2.0**
Xylenes	10.0	10.0**

* This table shall be supplemented to include the entire list of indicator parameters selected under Section 3.1.2.2 of this SOW.

** Value set at fresh water criteria unless other discharge limits can be established from other guidance documents or technical research, as approved by the Government Plaintiffs.

*** Data is not available to develop criteria for this compound. However, since research shows (EPA, 1986) that toxicity of chlorinated ethanes increases with increasing chlorination, the toxicity for Chloroethane and 1,1-dichloroethane should be less than the value for 1,2-dichloroethane.